

REMARKS

Claims 7-18 are now pending in this application and are rejected. New claims 19-20 are added herein to clarify the invention and to express the invention in alternative wording.

Claims 7-18 are rejected under 35 U.S.C. §103(a) as obvious over Fischer et al. ("Analysis of pressurized resistance vessel diameter changes with a low cost digital image processing device", 1996, Computer Methods and Programs in Biomedicine, vol. 50, No. 1, pp. 23-30) in view of Kishida et al. (U.S. Pat. No. 7,055,955). More specifically, the Examiner states that Fischer discloses measuring inner and outer diameters of a blood vessel wall and Kishida teaches using laser Doppler scanning to determine blood flow velocity in and vessel diameter of a blood vessel. In other words, the rejection characterizes the claims as simply combining prior art elements according to known methods to yield predictable results.

MPEP §2143 states that when rejecting a claim based on the rationale that the recited structure is simply "combining prior art elements according to known methods to yield predictable results" there must be a "finding that the prior art included each element." In addition, there must be a finding that "each element merely performs the same function as it does separately." Furthermore, "if proposed modification would render the prior art invention being modified unsatisfactory for

its intended purpose, then there is no suggestion or motivation to make the proposed modification.” See MPEP §2143.01 citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). The applicant respectfully traverses the rejections because the prior art fails to include each element as recited in the claims.

The cited art does not disclose a method or apparatus using data obtained by laser Doppler scanning to determine blood vessel wall thickness. Fischer only discloses measuring the thickness of a blood vessel wall where the blood vessel is “transilluminated with fiber optics.” See Fischer page 25. Col 1. Fischer’s entire disclosure is focused specifically on how to process transillumination data to obtain accurate measurements. In other words, Fischer’s measurements are based on light passing through the blood vessel producing a “shadow” image of the blood vessel. Thus, it is clear that Fischer’s method of measurement is not at all analogous or applicable to the one disclosed in the present invention which is based upon Doppler effects on reflected light energy. Moreover, Kishida does not discuss or address using Doppler laser scanning data to determine blood vessel wall thickness. In other words, one skilled in the art could not combine the disclosures of Fischer with Kishida to make an apparatus or perform a method to determine blood vessel wall thickness by Doppler laser scanning. Thus, the cited art disclosed fails to include a step of determining blood vessel wall thickness based upon Doppler laser scanning

data or an apparatus that makes a determination of blood vessel wall thickness based upon Doppler laser scanning data.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

Respectfully submitted,
JORDAN AND HAMBURG LLP

By C. Bruce Hamburg *by M. Zev Levoritz*
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants
and,

By M. Zev Levoritz
M. Zev Levoritz
Reg. No. 50,151
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340